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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/064,289	06/28/2002	Charles Edward Kuhlmann	RAL920010029	4433
25299	7590	01/30/2006	EXAMINER	
IBM CORPORATION PO BOX 12195 DEPT YXSA, BLDG 002 RESEARCH TRIANGLE PARK, NC 27709			LEVINE, ADAM L	
			ART UNIT	PAPER NUMBER
			3625	

DATE MAILED: 01/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/064,289

**Applicant(s)**

KUHLMANN ET AL.

**Examiner**

Adam Levine

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 and 15-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 and 15-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Prosecution History***

This application was filed June 28, 2002. Examiner Dinesh Melwani issued a first action July 30, 2003. Applicant filed response to that action on October 20, 2003, including arguments or remarks, and amendments to the claims. Examiner Melwani mailed a second non-final rejection December 23, 2003. Applicant filed response to that action on March 19, 2004, including arguments or remarks, and additional amendments to the claims. Examiner Geoffrey R issued final rejection July 21, 2004. Akers. Applicant filed additional amendments to the claims, and arguments or remarks, on September 21, 2004, that did not place the application in condition for allowance. Examiner Akers mailed an advisory action on October 14, 2004, and Applicant filed a request for continued examination (RCE) on November 8, 2004, leading to entry of the amendments and consideration of the arguments or remarks filed September 21, 2004. Examiner Matthew S. Gart issued a third non-final action on December 22, 2004. Applicant's response, filed March 22, 2005, included arguments or remarks but no additional amendments. A fourth non-final action was mailed by the present examiner on June 28, 2005. Applicant's response to that action, dated September 23, 2005, will be addressed in this final office action.

***Response to Amendment***

Applicant's response dated September 23, 2005, does not present claim amendments but does present arguments or remarks. Claims 1-13 and 15-20 are pending and considered in this final office action.

***Response to Arguments***

Applicant's arguments filed September 23, 2005, have been fully considered but they are not persuasive. Examiner notes that Applicant's initial characterization of the office action is inaccurate, as shown by a continued reading of the response, and by a re-reading of the office action. For example, all 19 pending claims are not rejected solely on the basis of column 4 lines 7-52. In fact, said citation appears only once. The Examiner cites particular columns and line numbers in the references as applied to the claims for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested that, in preparing responses, the applicant fully consider the reference in its entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

***Pertaining to rejection under 35 USC 102(b) in the previous office action:***

Wong teaches all the limitations of Claims 1-13 and 15-20. For example, regarding claims 1, 9, and 17, Wong discloses receiving the product order (see at least

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column 4 lines 30-39). An order placed by a customer, filled, assembled, shipped, and billed, has necessarily also been received. Wong also discloses determining component information of the at least one customer-selectable component included in the product of the received product order, the component information including component availability in real-time by querying a manufacturer system and in response to a component being unavailable at the manufacturer, querying at least one supplier system in real time that can supply the component to the manufacturer (see at least Figs. 4,5 allowing a real time search for items, part numbers, and manufacturers; Fig. 21, listing item information from various manufacturers, including information regarding quantity of the item taken by another system, thereby allowing the user to modify its component selection based on availability, or to order a similar item from another manufacturer. In this instance the manufacturer is the same as a supplier because Wong is discussing the manufacturer of the component, not the final product; column 26 lines 33-45, describing information available including stock/inventory status, i.e., product availability; column 26 lines 46-57, describing a user interface available with the above information, facilitating the purchase of inventory items (components) necessary to fill the order; column 26 line 58-column 27 line 6.)

Applicant argues that one cited portion of Wong "relates to conveyance of installation instructions." This statement is technically correct, however, it also ignores the context of the cited passage. In context the cited passage describes a convenient way to connect a large and complex order placed through the system of Wong with the specific installation instructions for each component part. This discloses not only

determining component information of customer selectable components, but also the system's usefulness in facilitating assembly of the final product from parts received by a manufacturer from various suppliers.

Applicant argues that the cited portions do not relate to component information including cost of alternative component and delivery lag time to manufacturer. Column 13 lines 45-59 states that "the items quoted are displayed, including description, manufacturer part number, unit price, quantity, and extended price." This information is component information. Similar information is shown in Figs.5 and column 1 lines '22-35. Figs. 7A show costs of alternative components. Figs. 7B and 7C show delivery lag times. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that, while Applicant's arguments list limitations in the inclusive "and" form, the features upon which applicant relies are only recited in the alternative in the rejected claim(s). Therefore only one of the listed items would be necessary to read on the claim.

Applicant argues that Wong does not determine component information and does not query a manufacturing system because a user is required to specify parameters for products and search the database and the user "searches the database himself." Searching a manufacturer's database is the same as querying a manufacturing system. It is not apparent how this distinguishes the present application. In the present application, there would necessarily also be a user initiating the process. Parties on the supplier and manufacturer sides could also be users of the system. Information regarding availability of components would also be stored on a database of the

manufacturer and supplier. If Applicant asserts that by querying a manufacturing or supplier system the user is not also querying a database, then such a statement would require that the manufacturing or supplier system not store the information on databases that would be accessed in response to the query. Otherwise, the distinction between the two inventions is not understood. Regardless, the present claims would need to be amended to clarify the distinction. The information in Wong is provided by and provided to manufacturers, among other parties. As noted above and in the prior office action, Wong discloses determining component information including availability.

Applicant argues that Wong does not disclose "real time" determination of component information because information is stored in a database that relies upon updates and therefore the information would not be "real time." This is also a distinction without a difference. The information in the present application would also be dependent upon the currency of the information available on the manufacturer or supplier system, however it is stored and updated. The information in Wong is regularly updated. Ideally all systems and databases would be updated constantly. The desirability of this quality is not novel. The information is accessed as the user uses the system. The current information is provided as the user uses the system and is therefore provided in "real time."

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**1. Claims 1-13 and 15-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Wong (Paper #061605; US Patent No. 6,115,690).**

Wong teaches all the limitations of Claims 1-13 and 15-20. For example, Wong discloses systems and methods of optimizing a product order where the product includes at least one customer-selectable component, comprising the steps of receiving the product order, determining component information of the at least one customer-selectable component included in the product of the received product order, the component information including component availability in real-time by querying a manufacturer system and in response to a component being unavailable at the manufacturer, querying at least one supplier system in real time that can supply the component to the manufacturer, and offering the customer at least one order option in real time based on a result of the determination (see at least column 4 lines 7-52, column 15 lines 30-49, Fig. 24). Wong further discloses:

- component information including cost of alternative component, delivery lag time to manufacturer if product is only available from a supplier, and product delivery lag time and cost for different manufacturing sites: (see at least column 13 lines 45-59, Figs. 7A-7C, 24-38).
- at least one option is selected from between offering the customer an alternate component, removing a component from the order, selecting a



- manufacturing site, and ignoring the at least one option: (see at least column 13 lines 45-59, column 14 line 61-column 15 line 8, Figs. 7A-7C, 13, 27).
- determining an appropriate supplier that can fulfill an order for a component that is unavailable at the manufacturer, and placing an order for the unavailable component with a system of the appropriate supplier (column 19 lines 25-47, column 25 lines 27-37, Fig. 62).
  - scheduling at least one of a product delivery schedule and a component delivery schedule with a shipper system (see at least column 16 line 61 – column 17 line 20, Figs. 23, 64, 67).
  - allowing the customer to choose an available manufacturing site based on at least one site factor: where site factor could be cost, component selected, proximity of required supplier to manufacturing site, proximity of manufacturing site to customer ship-to location, manufacturing site capacity, and existing component inventory at manufacturing site (see at least column 14 line 61-column 15 line 13, Figs. 7A-7C, 13, 27); confirming customer produce fulfillment conditions, supplier order and ship information, or shipper scheduling (see at least column 13 line 60 – column 14 line 15, column 24 lines 3-15, Figs. 7-9).

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Adam Levine whose telephone number is 571.272.8122. The examiner can normally be reached on M-F, 8:30-5:00 Eastern.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn W. Coggins can be reached on 571.272.7159. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Adam Levine  
Patent Examiner  
January 23, 2006



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TECHNOLOGY CENTER 3600